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| 10/539,479 | 01/23/2006 | Daisuke Yatsushiro | 052710 | 2658 |
| 38834 7590 04/01/2010 WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036 | | | | |
| EXAMINER | | | | |
| HSIAO, JAMES K | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 3657 | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentmail@whda.com

Office Action Summary

Application No.

10/539,479

Applicant(s)

YATSUSHIRO ET AL.

Examiner

JAMES K. HSIAO

Art Unit

3657

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akeno (JP 07-181275) in view of Michioka et al. (US-6155717).

Regarding claim 1, Akeno discloses at least one driving roller (3), a driven roller (2), and a cylindrical shaft (9), wherein the shaft is held between the driving roller and the driven roller and rotational force of the driving roller is transmitted to the shaft by rotating the driving roller so as to move the shaft in the axial direction (abstract and fig 1).

Akeno lacks a lubricator. Michioka et al. teaches wherein a traction drive power transmission device is provided with a lubricator (4) having applicators (56) which contact only axial portions of a surface of the shaft (fig 2a, raised bumps near 56) that are contacted by the driving roller and the driven roller, wherein the lubricator has an opening (fig 4, near ref #55) which is formed in a side of said lubricator to open both in an axial direction of the shaft and in a direction perpendicular to said axial direction (fig 4 shows an open in both directions claimed) and which has a shape and a size making it capable of being attached or detached, and the lubricator is capable of being attached

to and detached from said shaft in a direction perpendicular to the axial direction thereof.

The functional recitation "allowed" has not been given patentable weight because it is in narrative in form. In order to be given patentable weight, a functional recitation must be expressed as a "means" for performing the specified function, as set forth in 35 USC 112, 6th paragraph, and must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language. *In re Fuller*, 1929 C.D. 172; 388 O.G. 279.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the Lubricator of Michioka with the linear traction drive of Akeno because providing lubricant for the shaft will decrease wear and tear and provide for a longer service life.

Regarding claim 2, Michioka discloses wherein said lubricator comprises a reservoir (48) which absorbs and stores lubricant and supplies the lubricant to said applicators (col. 7, lines 52-55), and a casing which accommodates the applicators and the reservoir (fig 1).

Regarding claim 3, Michioka discloses wherein the casing has a concave portion (fig 2a) which is capable of allowing a shaft, such as Akeno's cylindrical shaft, to be attached and detached from the casing in a direction perpendicular to the axial direction of the shaft and said applicators (56) are disposed such that the ends of the applicators project from a face (fig 2a), opposed to the shaft of the concave portion (fig 2a).

Regarding claim 4, Akeno discloses wherein the rollers are accommodated in a housing box (1) and wherein the shaft penetrates and extends both ends of the housing box (fig 12, 109). Akeno lacks a lubricator. Michioka teaches wherein the lubricator is attached at both ends of the housing (fig 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the Lubricator of Michioka with the linear traction drive of Akeno because providing lubricant for the shaft will decrease wear and tear and provide for a longer service life.

Allowable Subject Matter

Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 12/9/2009 have been fully considered but they are not persuasive. The amendments fail to read over the prior art of record as the referenced art is still believed to read on the amendments made to claim 1. The amendments claim that the lubricators contact only axial portions of the shaft surface. The reference is interpreted in a manner in which any portion on the shaft is an axial portion, therefore as seen in figure 2a, the raised sections (near 56) of the lubricant applicators that contact axial portions of the shaft read on the claimed structure. The shaft of Mickioka was not relied upon for its shape. The Akeno reference discloses a

cylindrical shaft but lacks a lubricator, Michioka was relied upon for the lubricators. Regarding the argument pertaining to the opening, the Michioka reference shows an opening in both the axial direction of the shaft and the direction perpendicular to the axial direction which would allow for attachment and detachment in the manner as claimed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES K. HSIAO whose telephone number is (571)272-6259. The examiner can normally be reached on Monday through Friday 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on 571-272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Bradley T King/
Primary Examiner, Art Unit 3657

JKH